



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/7/2016

Date of order : 26.4.2017

Present: Hon'ble Mr.A.K.Patnaik, Judicial Member

1. BISWAJIT DUTTA
S/o Late Dulal Dutta,
R/o East Alipur,
Rabindra Pally,
Nimta, Kolkata - 49,
Working as Office Superintendent
In the Gun & Shell Factory,
Cossipore,
Kolkata - 700002.
2. SOMENATH DAS
S/o Late Balaram Das,
R/o AE/D/22 East Arjunpur,
Kolkata - 59,
Working as Office Superintendent
In the Gun & Shell Factory,
Cossipore,
Kolkata - 700002.
3. SOMENATH KUNDU
S/o Late Abhay Das Kundu,
R/o 36/B Umesh Mukherjee Road,
(Mondal Para), Belgharia,
Kolkata - 56,
Working as Office Superintendent
In the Gun & Shell Factory,
Cossipore,
Kolkata - 700002.
4. SIDDHESWAR SENGUPTA
S/o Late P.K.Sengupta,
R/o 109/1, PNB Road,
Nutan Pally, Nimta,
Kolkata - 49,
Working as Upper Division Clerk,
In the Gun & Shell Factory,
Cossipore,
Kolkata - 700002.
5. BOBY DUTTA
W/o Ravi Dutta,
R/o 201/A Pramanick Ghat Road,
Kolkata - 36,
Working as Office Superintendent
In the Gun & Shell Factory,
Cossipore,
Kolkata - 700002.

...APPLICANT

VERSUS

1. Union of India, through

The Secretary,
Ministry of Defence
(Defence Production),
Govt. of India,
South Block,
New Delhi - 110001.

2. The Director General cum
Chairman,
Ordnance Factory Board (OFB),
Govt. of India,
Ministry of Defence,
Having office at
Ayudh Bhawan,
10A Shaheed Khudiram Bose Road,
Kolkata - 700001.
3. The General Manager,
Gun & Shell Factory,
Cossipore,
Kolkata - 700002.
4. The Sr. General Manager,
Gun & Shell Factory,
Cossipore,
Kolkata - 700002

...RESPONDENTS.

For the applicant. : Mr.P.C.Das, counsel
Ms.T.Maity, counsel

For the respondents: Mr.B.P.Manna, counsel

O R D E R

Mr.A.K.Patnaik, J.M.

Heard Mr.P.C.Das, ld. Counsel along with Ms.T.Maity, ld. Counsel appearing for the applicant and Mr.B.P.Manna, ld. counsel appearing for the departmental respondents.

2. This OA has been filed by the applicant being aggrieved by the inaction on the part of the respondent authorities, under Section 19 of the Central Administrative Tribunals Act, 1985 seeking the following relief :

- a) Leave be granted to move one single application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the applicants have got a common grievance an all of them are similarly circumstanced persons;
- b) to pass an appropriate order directing upon the respondent authority to give the actual date of effect of the promotion of the applicants to the post of Office Superintendent w.e.f. 1.4.2013 instead of 1.4.2015 in terms of the Recruitment Rules in SRO No. 43 of 2013 and also in terms of office memo dated 28.5.2014

NSD

issued by the Department of Personnel & Training, New Delhi and the letters issued by the Ordnance Factory Board dated 15.12.2014 and 15.5.2015 along with all consequential benefits;

- c) to pass an appropriate order directing the respondent authority to give the actual date of promotion to the applicants to the post of Office Superintendent w.e.f. 1.4.2013 along with consequential benefits;

3. As per the ld. Counsel for the applicant the sum and substance of the OA is that the grievance of the applicants is that there is a statutory order issued by the Ministry of Defence, vide SRO No. 43 of 2013 whereby it has been clearly stated that the qualifying service for promotion to the post of Office Superintendent is 10 years regular service in the post of Upper Division Clerk,. Thus after rendering 10 years regular service in the grade, all the applicants became eligible for promotion to the post of Office Superintendent but the respondent authorities did not issue such promotion order at appropriate time despite vacancies. There is also an order issued by the Director General, Ordnance Factories dated 15.12.2014 forwarding the office memo of DOPT dated 28.5.2014 regarding the eligibility of the officers to be considered for promotion by DPC and for fixing up a crucial date for holding the DPC. Despite such letters the respondent authorities did not consider the case of the present applicants. Being highly aggrieved by non-consideration of the representation by the respondent authorities, the applicants have approached this Tribunal in the instant OA.

4. On being questioned regarding maintainability of this OA under Section 20 of the CAT Act, Mr.Das submitted that the applicants have already preferred representations (Annexure A/7 to the OA) addressed to respondent No.3 for extending benefits w.e.f. 1.4.2013 instead of 1.4.2015 but till date they have remained un-answered.

5. On the other hand Mr.Manna, ld. Counsel for the respondents vehemently opposed such submission made by Mr.Das and brought to my notice para 13 of the reply statement in which it has been categorically stated that the respondents have not received any such representation as claimed by the applicants. Mr.Manna submitted that when the applicants have not

ventilated their grievance before the appropriate authority, the departmental respondents did not have any scope to consider any such grievance of the applicants.

6. On being questioned Mr.Das submitted that though as per his instruction, the applicants have preferred representations as annexed under Annexure A/7 to the OA, still then liberty may be granted to the applicants to make individual representations addressed to respondent No.3 enclosing the well settled position of law and specific time frame may be given to the concerned respondent to consider the same as per the DOPT OM No.22011/6/2013-Estt (D) dated 28.5.2014.

7. I do not think it will be prejudicial to either of the sides if such a direction is given and accordingly without entering into the merits of the case, the OA is disposed of at the admission stage by directing the applicants to prefer individual representations before the respondent No.3 enclosing any judgment rendered by any competent Court of Law within a period of six weeks and if such representation is preferred, the respondent No.3 may consider the same as per rules and regulations in force and dispose it of by passing a well reasoned and speaking order and communicate the same to the applicant within 3 months from the date of receipt of this order.

8. Though I have not expressed any opinion on the merit of the matter and all the points raised in the representations are kept open for the said respondent No.3 to consider the same as per the rules and regulations in force, still then I hope and trust that while considering the said representation respondent No.2 will also keep in mind the applicability of the DOPT OM dated 28.5.2014 in case of the applicants. After such consideration, if the applicants' grievance is found to be genuine then expeditious steps may be taken preferably within a further period of 3 weeks from the date of such consideration to extend the benefits of promotion to the applicants.

9. With the aforesaid observation and direction the OA is disposed of at the admission stage itself. No costs.

W/O

10. A copy of this order be handed over to both the Id. Counsels. The applicants will be at liberty to annex a copy of this order along with the individual representations to be preferred by them, if so advised.

(A.K.PATNAIK)
MEMBER (J)

in